

AN ACT

relating to the relative or other designated caregiver placement program and to monetary assistance provided by the Department of Family and Protective Services to certain relative or designated caregivers; creating a criminal offense; creating a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 264.755, Family Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (b-1), (b-2), and (f) to read as follows:

(a) The department shall, subject to the availability of funds, enter into a caregiver assistance agreement with each relative or other designated caregiver to provide monetary assistance and additional support services to the caregiver. The monetary assistance and support services shall be based on a family's need, as determined by Subsection (b) and rules adopted by the executive commissioner.

(b) The department shall provide monetary ~~[Monetary]~~ assistance ~~[provided]~~ under this section to a caregiver who has a family income that is less than or equal to 300 percent of the federal poverty level. Monetary assistance provided to a caregiver under this section may not exceed 50 percent of the department's daily basic foster care rate for the child. A caregiver who has a family income greater than 300 percent of the federal poverty level is not eligible for monetary assistance under this section ~~[must~~

1 ~~include a one-time cash payment to the caregiver on the initial~~
2 ~~placement of a child or a sibling group. The amount of the cash~~
3 ~~payment, as determined by the department, may not exceed \$1,000 for~~
4 ~~each child. The payment for placement of a sibling group must be at~~
5 ~~least \$1,000 for the group, but may not exceed \$1,000 for each child~~
6 ~~in the group. The cash payment must be provided on the initial~~
7 ~~placement of each child with the caregiver and is provided to assist~~
8 ~~the caregiver in purchasing essential child-care items such as~~
9 ~~furniture and clothing].~~

10 (b-1) The department shall disburse monetary assistance
11 provided to a caregiver under Subsection (b) in the same manner as
12 the department disburses payments to a foster parent. The
13 department may not provide monetary assistance to an eligible
14 caregiver under Subsection (b) after the first anniversary of the
15 date the caregiver receives the first monetary assistance payment
16 from the department under this section. The department, at its
17 discretion and for good cause, may extend the monetary assistance
18 payments for an additional six months.

19 (b-2) The department shall implement a process to verify the
20 family income of a relative or other designated caregiver for the
21 purpose of determining eligibility to receive monetary assistance
22 under Subsection (b).

23 (c) Monetary assistance and additional support services
24 provided under this section may include:

25 (1) case management services and training and
26 information about the child's needs until the caregiver is
27 appointed permanent managing conservator;

1 (2) referrals to appropriate state agencies
2 administering public benefits or assistance programs for which the
3 child, the caregiver, or the caregiver's family may qualify;

4 (3) family counseling not provided under the Medicaid
5 program for the caregiver's family for a period not to exceed two
6 years from the date of initial placement;

7 (4) if the caregiver meets the eligibility criteria
8 determined by rules adopted by the executive commissioner,
9 reimbursement of all child-care expenses incurred while the child
10 is under 13 years of age, or under 18 years of age if the child has a
11 developmental disability, and while the department is the child's
12 managing conservator; and

13 (5) if the caregiver meets the eligibility criteria
14 determined by rules adopted by the executive commissioner,
15 reimbursement of 50 percent of child-care expenses incurred after
16 the caregiver is appointed permanent managing conservator of the
17 child while the child is under 13 years of age, or under 18 years of
18 age if the child has a developmental disability[~~, and~~

19 [~~(6) reimbursement of other expenses, as determined by~~
20 ~~rules adopted by the executive commissioner, not to exceed \$500 per~~
21 ~~year for each child].~~

22 (f) If a person who has a family income that is less than or
23 equal to 300 percent of the federal poverty level enters into a
24 caregiver assistance agreement with the department, obtains
25 permanent managing conservatorship of a child, and meets all other
26 eligibility requirements, the person may receive an annual
27 reimbursement of other expenses for the child, as determined by

1 rules adopted by the executive commissioner, not to exceed \$500 per
2 year until the earlier of:

3 (1) the third anniversary of the date the person was
4 awarded permanent managing conservatorship of the child; or

5 (2) the child's 18th birthday.

6 SECTION 2. Subchapter I, Chapter 264, Family Code, is
7 amended by adding Section 264.7551 to read as follows:

8 Sec. 264.7551. FRAUDULENT AGREEMENT; CRIMINAL OFFENSE;
9 CIVIL PENALTY. (a) A person commits an offense if, with intent to
10 defraud or deceive the department, the person knowingly makes or
11 causes to be made a false statement or misrepresentation of a
12 material fact that allows a person to enter into a caregiver
13 assistance agreement.

14 (b) An offense under this section is:

15 (1) a Class C misdemeanor if the person entered into a
16 fraudulent caregiver assistance agreement and received no monetary
17 assistance under the agreement or received monetary assistance
18 under the agreement for less than 7 days;

19 (2) a Class B misdemeanor if the person entered into a
20 fraudulent caregiver assistance agreement and received monetary
21 assistance under the agreement for 7 days or more but less than 31
22 days;

23 (3) a Class A misdemeanor if the person entered into a
24 fraudulent caregiver assistance agreement and received monetary
25 assistance under the agreement for 31 days or more but less than 91
26 days; or

27 (4) a state jail felony if the person entered into a

1 fraudulent caregiver assistance agreement and received monetary
2 assistance under the agreement for 91 days or more.

3 (c) If conduct that constitutes an offense under this
4 section also constitutes an offense under any other law, the actor
5 may be prosecuted under this section, the other law, or both.

6 (d) The appropriate county prosecuting attorney shall be
7 responsible for the prosecution of an offense under this section.

8 (e) A person who engaged in conduct described by Subsection
9 (a) is liable to the state for a civil penalty of \$1,000. The
10 attorney general shall bring an action to recover a civil penalty as
11 authorized by this subsection.

12 (f) The commissioner of the department may adopt rules
13 necessary to determine whether fraudulent activity that violates
14 Subsection (a) has occurred.

15 SECTION 3. Subchapter I, Chapter 264, Family Code, is
16 amended by adding Section 264.762 to read as follows:

17 Sec. 264.762. ANNUAL REPORT. Not later than September 1 of
18 each year, the department shall publish a report on the relative and
19 other designated caregiver placement program created under this
20 subchapter. The report must include data on permanency outcomes for
21 children placed with relative or other designated caregivers,
22 including:

23 (1) the number of disruptions in a relative or other
24 designated caregiver placement;

25 (2) the reasons for any disruption in a relative or
26 other designated caregiver placement; and

27 (3) the length of time before a relative or other

1 designated caregiver who receives monetary assistance from the
2 department under this subchapter obtains permanent managing
3 conservatorship of a child.

4 SECTION 4. Not later than September 1, 2018, the Department
5 of Family and Protective Services shall publish the first report
6 required under Section 264.762, Family Code, as added by this Act.

7 SECTION 5. (a) Except as provided by Subsection (b) of this
8 section, Section 264.755, Family Code, as amended by this Act,
9 applies to a caregiver assistance agreement entered into before,
10 on, or after the effective date of this Act.

11 (b) If a person who has a family income that is less than or
12 equal to 300 percent of the federal poverty level entered into a
13 caregiver assistance agreement with the Department of Family and
14 Protective Services on or after June 1, 2017, but before the
15 effective date of this Act, and received monetary assistance under
16 the agreement from the department, the department shall consider
17 the money paid to the person to be a credit against the disbursement
18 of caregiver assistance funds, and may not begin disbursing money
19 to the person as authorized by Section 264.755, Family Code, as
20 amended by this Act, until the credit has been offset.

21 SECTION 6. This Act takes effect only if a specific
22 appropriation for the implementation of the Act is provided in a
23 general appropriations act of the 85th Legislature. If the
24 legislature does not appropriate money specifically for the purpose
25 of implementing this Act, this Act has no effect.

26 SECTION 7. Except as otherwise provided by this Act, this
27 Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 4 was passed by the House on March 2, 2017, by the following vote: Yeas 143, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 4 on May 25, 2017, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 4 was passed by the Senate, with amendments, on May 22, 2017, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor